



AGENDA DATE: 12/20/00  
AGENDA ITEM: 8A

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
*Two Gateway Center*  
*Newark, NJ 07102*

IN THE MATTER OF THE PETITION OF )  
WINSTAR WIRELESS OF NEW JERSEY, LLC )  
FOR APPROVAL OF FINANCING )  
ARRANGEMENTS AND CORPORATE )  
REORGANIZATION )

TELECOMMUNICATIONS

ORDER OF APPROVAL

DOCKET NO. TF00080535

The Rothfelder Law Offices, by Martin C. Rothfelder, Esq., Westfield, New Jersey, for  
Winstar Wireless of New Jersey, LLC

Fred S. Grygiel, Chief Economist, Mark C. Beyer, Manager, Leo M. Lim, Supervising  
Accountant, Julie Huff, Accountant II, Office of the Economist, on behalf of the  
Staff of the Board of Public Utilities

**BY THE BOARD:**

Winstar Wireless of New Jersey, LLC. ("WWNJ" or "Petitioner"), a Delaware limited liability company, filed a petition on August 24, 2000, requesting authority to: (1) enter into financing arrangements whereby WWNJ will serve as guarantor and pledge certain assets as collateral as part of the establishment of a credit facility (the "Facility") with various lenders; and (2) undertake an internal pro forma corporate reorganization.

Petitioner is a wholly owned subsidiary of Winstar Wireless, Inc. ("WWI"), which, in turn, is a wholly owned subsidiary of Winstar Communications, Inc. ("WCI"). WCI is a publicly held Delaware corporation. WWNJ is authorized to provide facilities-based and resold telecommunications services in the State of New Jersey pursuant to an Order issued by the Board on March 12, 1997, in Docket No. TE96080579.

WWNJ seeks approval to participate as a guarantor, and pledge its assets up to \$1.35 billion as part of the Facility. The Facility is comprised of a \$300 million revolving credit facility, and three term loans. The first term loan is for \$375 million, which will be repaid commencing March 31, 2004 and ending March 31, 2007. The second term loan is for \$475 million, which will be repaid commencing March 31, 2004 and ending September 30, 2007. The third term loan is for \$200 million, which will be repaid commencing June 30, 2004 and ending on December 31, 2007. The Facility will be secured by the guaranty and pledge of assets of WWNJ and WWNJ's parent companies and other subsidiaries of WCI. The proceeds from the Facility will be used to pay down WCI loans outstanding under a previously existing facility and for general corporate purposes.

The interest rates of the Facility will vary. Loans may be made based on the premium over the prime rate or a premium over the London Interbank Rate ("LIBOR"). The amount of the premium varies among different tranches of the loans available under this Facility and also changes over time based on Winstar meeting certain criteria in the future. The interest rate on revolving loans borrowed under the existing Facility will be either 2.25% over the prime rate or 3.25% over LIBOR, at the borrower's election.

WWNJ also seeks approval, to the extent necessary, to undertake a corporate reorganization. WWNJ is a wholly owned subsidiary of WWI, which in turn, is a wholly owned subsidiary of WCI, a nonregulated entity that operates as an ultimate holding company of WWNJ. The reorganization interposes WCI Capital Corp. ("WCC"), currently a sister company of WWI and wholly owned subsidiary of WCI, between WWNJ's direct parent, WWI, and WCI. WCC will be the new direct parent of WWI and WWNJ will remain a wholly owned subsidiary of WWI. The reorganization is strictly pro forma. The immediate, as well as ultimate, ownership and control of WWNJ will not change.

The proposed reorganization will be transparent to WWNJ's customers and will not adversely affect the provision of telecommunication services in New Jersey. Petitioner states that service will continue to be provided pursuant to its existing contracts and tariffs at the same rates, terms and conditions.

By letter dated December 18, 2000, the New Jersey Division of the Ratepayer Advocate (Advocate) filed comments on this matter and recommended that the Board decline to grant the petition as currently filed. The Advocate espoused this position indicating that: "The Petitioner asserts that the proposed financing arrangement will serve the public interest in promoting competition among telecommunications carriers by providing the resources to strengthen its competitive position. Winstar NJ asserts that the funds will be used in part to pay down all of its outstanding loans under an existing agreement with Lucent, However, no further specifics were provided on the level of benefit such financing will bring to Winstar NJ's operations in New Jersey, and by extension to its prospective customers in New Jersey, that would support the asserted benefits to the public interest." The Board disagrees. Greater access to capital will benefit New Jersey consumers, and the Board finds that this is a lawful objective which encourages investment in the State.

The Board, after investigation, having considered the record and exhibits submitted in this proceeding, is satisfied with the action proposed to be taken by Petitioner as indicated above and finds that the transaction to be made is in accordance with law and is in the public interest, and APPROVES the purposes thereof. The Board HEREBY AUTHORIZES Winstar Wireless of New Jersey, LLC to: (1) serve as guarantor, and pledge its assets in connection with the financing arrangements under the credit facility described herein; and (2) undertake the corporate reorganization described herein.

This Order is issued subject to the following provisions:

- (1) notwithstanding anything to the contrary in the documents executed pursuant to the financing agreements approved hereunder or other supporting documents, a default or assignment under such agreements does not

constitute automatic transfer of Petitioner's assets. Board approval shall be sought pursuant to N.J.S.A. 48:1-1 et seq., where applicable;

- (2) this Order shall not be construed as directly or indirectly fixing, for any purpose whatsoever, any value of the tangible or intangible assets now owned or hereafter to be owned by Petitioner;
- (3) This Order shall not affect, or in any way limit the exercise of the authority of this Board, or of the State, in any future petitions or in any proceeding with respect to rates, franchises, services, financing, accounting, capitalization, depreciation or any other matters affecting the Petitioner; and
- (4) Petitioner shall semiannually file statements for the amounts and use of the credit facilities pursuant to N.J.A.C. 14:1-5.9(b).

DATED: December 21, 2000

BOARD OF PUBLIC UTILITIES  
BY:

[SIGNED]  
HERBERT H. TATE  
PRESIDENT

[SIGNED]  
CARMEN J. ARMENTI  
COMMISSIONER

[SIGNED]  
FREDERICK F. BUTLER  
COMMISSIONER

ATTEST:

[SIGNED]  
FRANCES L. SMITH  
BOARD SECRETARY